

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DENNIS SUDBERRY,

Plaintiff,

v.

ISIDRO BACA, et al.,

Defendants.

3:15-cv-00402-RCJ-WGC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On February 12, 2016, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within thirty days. (ECF No. 5 at 6).

The thirty-day period has now expired, and Plaintiff has not filed an amended complaint.

Plaintiff has filed a notice entitled “Clarification on Cases” (ECF No. 7) and a motion for clarification of cases (ECF No. 8). The Court finds that these two filings are unresponsive to the screening order filed by the Court.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an

1 action, failure

2 to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52,
3 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963
4 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
5 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal
6 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
7 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for
8 failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
9 (dismissal for lack of prosecution and failure to comply with local rules).

10 In determining whether to dismiss an action for lack of prosecution, failure to obey a
11 court order, or failure to comply with local rules, the court must consider several factors: (1)
12 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
13 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
14 cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d
15 at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
16 61; *Ghazali*, 46 F.3d at 53.

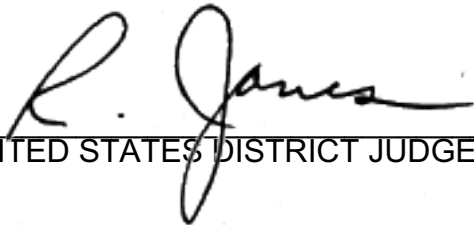
17 In the instant case, the Court finds that the first two factors, the public's interest in
18 expeditiously resolving this litigation and the Court's interest in managing the docket, weigh
19 in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
20 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
21 filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
22 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases
23 on their merits – is greatly outweighed by the factors in favor of dismissal discussed herein.
24 Finally, a court's warning to a party that his failure to obey the court's order will result in
25 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262;
26 *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring
27 Plaintiff to file an amended complaint within thirty days expressly stated: "IT IS FURTHER
28

1 ORDERED that if Plaintiff chooses not to file an amended complaint curing the stated
2 deficiencies of the complaint, this action shall be dismissed without prejudice.” (ECF No. 5
3 at 6:23-25). Thus, Plaintiff had adequate warning that dismissal would result from his
4 noncompliance with the Court’s order to file an amended complaint within thirty days.

5 It is therefore ordered that this action is dismissed based on Plaintiff’s failure to file an
6 amended complaint in compliance with this Court’s February 12, 2016, order (ECF No. 5) and
7 for failure to state a claim.

8 It is further ordered that the Clerk of Court shall enter judgment accordingly.

9 DATED: March 30, 2016.

10
11 
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28